

## STATUS REPORT LATE

### **Deficiency Status Report 7**

Status Report Submitted: March 4, 2008

**CUPA Name:** Tuolumne County Environmental Health

**Evaluation Date:** March 22 and 23, 2006

**Next Status Report Due:** January 18, 2008

#### **State Evaluation Team:**

*Cal/EPA Team Leader: Kareem Taylor*

*DTSC Evaluator: Mark Pear*

*OES Evaluator: Jack Harrah*

*SWRCB Evaluator: Marci Christofferson*

*OSFM Evaluator: Francis Mateo*

Based on the CUPA's corrective action responses, the following deficiencies are considered corrected and no further updates are required: 1, 2, 4, 6, 7, 8, 9, 12, 14, 15, 16, 17, 18, 19, 20.

Please update any deficiencies that remain in progress.

#### **Deficiencies and Corrective Actions**

3. **Deficiency:** The CUPA is not inspecting HMRRP facilities once every three years.

**Preliminary Corrective Actions:** Inspect HMRRP facilities once every three years.

**CUPA's 5<sup>th</sup> Status Update:** The CUPA has inspected 62 HMRRP facilities this year. (see attached SWEEPS report)

**Cal/EPA's 5<sup>th</sup> Response:** The CUPA routinely inspected 62 HMRRP facilities in FY 06/07 which is a vast improvement from last FY's inspection total of 15. Keep up the good work! With 251 HMRRP facilities, the CUPA should routinely inspect at least 84 facilities each FY to maintain the mandated inspection frequency of one every three years. With that being said, the CUPA manager has done a terrific job of moving Tuolumne's UP in the right direction.

On the next status report, please provide an update on the progress toward correction of this deficiency.

**CUPA's 6<sup>th</sup> Status Update:** The CUPA has inspected 82 HMRRP facilities since July 1, 2006 (see attached SWEEPS report).

**Cal/EPA's 6<sup>th</sup> Response:** Cal/EPA would like the CUPA to perform 24 routine inspections on business plan facilities during the 2<sup>nd</sup> and 3<sup>rd</sup> quarter of the 07/08 fiscal year (48 inspections total). On the next status report, please provide an update on the progress toward correction of this deficiency.

**CUPA's 7<sup>th</sup> Status Update:** The CUPA has inspected 20 HMRPP facilities since July 1, 2007 (see attached SWEEPS report).

4. **Deficiency:** The CUPA is not inspecting Hazardous Waste Generators once every three years.

**Preliminary Corrective Actions:** Inspect Hazardous Waste Generators once every three years.

**CUPA's 5<sup>th</sup> Status Update:** The CUPA has inspected 49 hazardous waste generators this year (see attached SWEEPS report)

**Cal/EPA's 5<sup>th</sup> Response:** The CUPA routinely inspected 49 HWG facilities in FY 06/07 which is a vast improvement from last FY's inspection total of 0. Excellent work!

Due to the CUPA's corrective actions, Cal/EPA considers this deficiency corrected.

5. **Deficiency:** The CUPA is not inspecting Underground Storage Tank facilities once a year.

**Preliminary Corrective Actions:** Inspect Underground Storage Tank facilities once every year.

**CUPA's 5<sup>th</sup> Status Update:** The CUPA inspected 11 UST sites this year. (see attached SWEEPS report) The environmental health division is experiencing severe personnel shortages and currently there is no available ICC certified inspector on staff. Two staff were sent for testing and both failed the examination. Additional testing is being scheduled.

**Cal/EPA's 5<sup>th</sup> Response:** The CUPA's UST inspection frequency for FY 06/07 is the same as last year. 11 out of 40 facilities have been routinely inspected. The shortfall is due to lack of ICC certified inspectors. The CUPA is actively seeking to correct this deficiency by scheduling ICC examinations for two of its staff members. In the mean time, the CUPA may want to consider contacting other CUPA's to see if any of their inspectors can inspect for them until they have qualified inspectors.

On the next status report, please provide an update on the progress toward correction of this deficiency.

**CUPA's 6<sup>th</sup> Status Update:** The number of facilities has not changed since the last progress report due to lack of ICC certified inspectors. The Environmental Health Division hired two new inspectors on October 1, 2007. This will alleviate the severe shortage in CUPA staffing. The ICC certified inspector on staff was scheduled to return October 1, 2007 but took an additional year of military leave. The CUPA has planned to schedule staff to re-test for the ICC certification before the end of this calendar year. Staff to attend CUPA conference in February 2008.

**Cal/EPA's 6<sup>th</sup> Response:** On the next status report, please provide an update on the progress toward correction of this deficiency. Include the total number of UST routine inspections performed during the 2<sup>nd</sup> quarter of the fiscal year.

**CUPA's 7<sup>th</sup> Status Update:** There are no current CUPA employees who are UST certified, therefore no routine inspections were conducted in the 2<sup>nd</sup> quarter. The CUPA has entered into a outside contract with a certified individual who will be able to conduct the inspections on a one day a week basis, and it is intended that all 40 inspections that are due will be completed by the end of the 4<sup>th</sup> quarter (June 2008).

10. **Deficiency:** The CUPA has not inspected all (both) CalARP facilities within the past three years.

**Preliminary Corrective Actions:** Inspect all CalARP facilities once every three years.

**CUPA's 5<sup>th</sup> Status Update:** The CUPA has failed to inspect the CalARP facilities for this year. The CUPA does not have anyone on staff trained to do CalARP inspections. Staff has attended one training with its neighboring county, Stanislaus for CalARP training and has planned to do additional training of inspections for completing the CalARP inspections this year.

**Cal/EPA's 5<sup>th</sup> Response:** The CUPA has not inspected any CalARP facilities for FY 06/07 due to lack qualified inspectors. Continue to train staff for CalARP inspections.

On the next status report, please provide an update on the progress toward correction of this deficiency.

**CUPA's 6<sup>th</sup> Status Update:** The CUPA has attempted to attain training for inspectors with no success. There is no available training for CUPA staff at this time. One of the two facilities was inspected in July 2005 and is not due for inspection until July 2008. The CUPA has not inspected any CalARP facilities for FY 06/07 due to lack qualified inspectors. Continue to seek CalARP training for CUPA staff. Attend CUPA conference in February 2008.

**Cal/EPA's 6<sup>th</sup> Response:** Continue to seek training for CUPA inspectors. Contact Jack Harrah with OES for more information about training opportunities. His number is 916-845-8759. I believe the next CalARP training will be held at the 2008 CUPA Conference in February. On the next status report, please provide an update on the progress toward correction of this deficiency.

**CUPA's 7<sup>th</sup> Status Update:** The CUPA has not inspected either of the CalARP facilities during the first two quarters of FY 07-08. CUPA staff did attend the 2008 CUPA Conference, and will be working with the contractor to complete the Cal ARP inspections during FY 07-08. A full staffing analysis is included at the end of this memorandum.

- 11. Deficiency:** The CUPA is not obtaining inventories or inventory certification annually from all businesses subject to the Business Plan Program.

**Preliminary Corrective Actions:** Ensure that the next inventory submission is complete and correct.

**CUPA's 5<sup>th</sup> Status Update:** The CUPA has obtained inventories or inventory certification from 145 businesses this year. (see attachments)

**Cal/EPA's 5<sup>th</sup> Response:** The CUPA has obtained inventories or inventory certification from 58% of their business plan facilities. Continue to obtain inventories or inventory certification from BP facilities.

On the next status report, please provide an update on the progress toward correction of this deficiency.

**CUPA's 6<sup>th</sup> Status Update:** The CUPA has initiated a new inventory for fiscal year 2007-2008 and continues to send out certification statements with our annual billing statement for each facility. (See attachments for current inventory for this fiscal year)

**Cal/EPA's 6<sup>th</sup> Response:** Current year inventories or annual inventory certifications must be received each year from all business plan facilities. According to the "Business Plan and Certification Log" spreadsheet, the CUPA has received about 24 out of 250 annual certifications for the first quarter of FY 07/08. If this trend continues, the CUPA will collect 96 out of 250 total annual certifications in FY 07/08. The total number of certifications received may change significantly if the CUPA bills more heavily at certain points in the

year. Some CUPAs bill all of their facilities during one or two months every year (i.e. all bills go out in January). Does this represent Tuolumne's billing practice?

**CUPA's 7<sup>th</sup> Status Update:** The CUPA bills the facilities on an anniversary date/monthly basis, with the bills being sent out two months prior to their permit expiration date. During the first two quarters of FY 07-08, thirty-four business plans were received and certified, and the attached spreadsheet indicates the plans that have been received. The Senior Office Assistant is responsible for the billings, with the Environmental Health Technician tracking those that have been received.

- 13. Deficiency:** The CUPA is not ensuring that Business Plans are being reviewed every three years.

**Preliminary Corrective Actions:** Ensure that any business plan more than three years old has a certification of review or that a new business plan is submitted.

**CUPA's 5<sup>th</sup> Status Update:** The CUPA is ensuring that Business Plans are being reviewed by requesting certification statement reviews from all businesses and by reviewing plans during the routine inspection of businesses. (see attachments)

**Cal/EPA's 5<sup>th</sup> Response: (refer to OES's response)**

**OES wrote:** Business plan 3-year review. It is impossible to tell from the supporting documents how many of the business plans have been reviewed in the past three years. If the CUPA is reviewing the entire business plan at the time of inspection, then this deficiency is tied to #3 above, and both will be corrected at the same time. CUPA should report progress with the next status report.

**CUPA's 6<sup>th</sup> Status Update:** The CUPA is reviewing business plans at the time of inspection. See deficiency 3 above.

**Cal/EPA's 6<sup>th</sup> Response:** The Excel spreadsheet submitted contains columns for business plan and annual certification receipt dates or notations (x). It was unclear what the business plan column was actually tracking. Was it tracking new business plans received or owner/operator certifications that current business plans have been reviewed and no changes were necessary? Cal/EPA and OES believes that it records both. Please clarify this in the next status report. Also report how many business plans have been reviewed within the last three years? As noted in Cal/EPA's response to deficiency #3 from the last status report, the CUPA needs to inspect about 84 businesses per year and verify during inspections that owners/operators have reviewed their business plans.

**CUPA's 7<sup>th</sup> Status Update:** The spreadsheets for the last three fiscal years are attached to this report, with certification referring to the annual report and business plan referring to the three year review process. The business plan data for FY 05-06 was not entered into the spreadsheet, and is therefore unavailable. In the first two quarters of FY 07-08, fourteen business plans have been received and reviewed. As training is completed, the Environmental Health Technician will be working with the Senior OA to insure the compliance of business plans with state law.

- 18. Deficiency:** While the former UST permit and conditions contained the required elements, the current UST permit and conditions does not contain all of the required elements.

**Preliminary Corrective Actions:** Develop a new UST permit and conditions containing the required elements as outlined in Title 23, Section 2712.

**Note:** The water board has stated that the CUPA may attach a monitoring plan to the permit to operate for UST facilities to correct this deficiency. All of the monitoring elements (included on the monitoring plan) must be included with the permit to operate.

**CUPA's 5<sup>th</sup> Status Update:** The CUPA has developed a new UST permit as outlined in Title 23, Section 2712. (see attachments)

**Cal/EPA's 5<sup>th</sup> Response:** Due to the CUPA's corrective actions, Cal/EPA considers this deficiency corrected. Please review the water board's response.

**SWRCB wrote:** The water board has reviewed the permit. The CUPA may want to state that the document is a "Permit to Operate" Underground Storage Tanks at the top of the page. The conditions are located at the bottom of the page. They may wish to, also, include the construction of the tank; although it is not required by statute, it just makes the permit more complete to identify whether the tanks are single or double-walled, etc. Other than that the permit is acceptable.

**CUPA's 7<sup>th</sup> Status Update:** This issue will be discussed with the individual who is contracting for the UST Inspection Program. If appropriate, changes will be made to the permit document.

**Staffing Summary:** The CUPA program has been assigned to a Senior Environmental Health Specialist. The incumbent has been on military leave for the past two years, and it is not known when or if the individual will return to county service. The County is obligated to hold the position open for five years. In the interim, the Principal Environmental Health Specialist has provided staff work in the CUPA program. The requirement for UST certification limited the duties of the Principal, and the individual in the position accepted a position outside of the county in January 2008. Thus, no current staff members are currently certified in the CUPA program. Recognizing this problem, the CUPA has transitioned an EHS I (Trainee) into the CUPA program, and this individual started training at the 2008 CUPA Conference. In addition, the EH Technician is undergoing a workload revision to allow time for additional support work in the CUPA program. The intent is that both individuals will become certified in the UST program as well as the developing Aboveground Petroleum Storage Tank (APST) program. In addition, an individual certified in the UST program is now under contract to complete all of the UST inspections by June 2008, and will also help train the EHS I. The completion of the UST certification by both individuals will be dependent on when and where Cal EPA offers the certification classes.